

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JOHNNIE MCCOLLUM,**  
**Plaintiff**

**v.**

**MICHAEL H.W. PRIES, et al.,**  
**Defendants**

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**No. 1:22-cv-01710**

**(Judge Rambo)**

**ORDER**

**AND NOW**, on this 2nd day of April 2024, upon consideration of Defendants' motion to dismiss Plaintiff Johnnie McCollum ("Plaintiff")'s amended complaint, filed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (Doc. No. 32), and Plaintiff's motion for leave to amend his amended complaint (Doc. No. 36), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. Plaintiff's motion for leave to amend his amended complaint (Doc. No. 36) is **DEEMED WITHDRAWN**;
2. Defendants' motion to dismiss Plaintiff's amended complaint (Doc. No. 32) is **GRANTED in part** and **DENIED in part** as follows:
  - a. Defendants' motion (Doc. No. 32) is **GRANTED** as to their arguments concerning the individual members of the Prison Board (i.e., Defendants Pries, Hartwick, Saylor, Cherry, Wenner, Chimienti, Markel, Lavery, Jr., Curcillo, and Chardo), and these Defendants are **DISMISSED** from this action. The Clerk of Court is directed to **TERMINATE** these Defendants from the caption of this case. However, Plaintiff may name the Prison Board as a defendant in his amended complaint;

- b. Defendants' motion (Doc. No. 32) is **GRANTED** as to their arguments that Plaintiff's First and Fourteenth Amendment claims under 42 U.S.C. § 1983 fail to state claims upon which relief can be granted, and these claims are **DISMISSED**;
  - c. Defendants' motion (Doc. No. 32) is **GRANTED** as to their arguments concerning the lack of personal involvement of Defendants Pierre, Lucas, and Welker with respect to Plaintiff's First Amendment claim;
  - d. Defendants' motion (Doc. No. 32) is **DENIED** as to their arguments concerning the lack of personal involvement of Defendants Pierre, Lucas, and Welker with respect to Plaintiff's Fourteenth Amendment claim;
  - e. Defendants' motion (Doc. No. 32) is **DENIED** as to their arguments concerning the lack of personal involvement of Defendant Briggs with respect to Plaintiff's First and Fourteenth Amendment claims;
- 3. Plaintiff's amended complaint (Doc. Nos. 16, 18) is **DISMISSED**;
  - 4. Plaintiff is **GRANTED** a **final** opportunity to amend his pleading, and any second amended complaint shall be filed by Plaintiff within **thirty (30) days** of the date of this Order. Plaintiff is advised to adhere to the standards set forth by the Court in its accompanying Memorandum; and
  - 5. The Clerk of Court is directed to **MAIL** Plaintiff a civil rights complaint form. Plaintiff shall title that complaint form "Second Amended Complaint" and shall include the docket number for this case, 1:22-cv-01710.

s/ Sylvia H. Rambo  
SYLVIA H. RAMBO  
United States District Judge